

Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors

SOURCE: 63 FR 33820, June 19, 1998, unless otherwise noted.

§63.1211 Notification requirements.

(a) *Notification of Intent To Comply (NIC)*. (1) All hazardous waste combustors subject to this subpart shall prepare a Notification of Intent to Comply that includes the following information:

(i) General information:

(A) The name and address of the owner/operator and the source;

(B) Whether the source is a major or an area source;

(C) Waste minimization and emission control technique(s) being considered;

(D) Emission monitoring technique(s) being considered;

(E) Waste minimization and emission control technique(s) effectiveness;

(F) A description of the evaluation criteria used or to be used to select waste minimization and/or emission control technique(s); and

(G) A statement that the source intends to comply with this subpart by controlling emissions from the combustion of hazardous waste pursuant to the standards of this subpart.

(ii) Information on key activities and estimated dates for these activities that will bring the source into compliance with emission control requirements of this subpart. The submission of key activities and dates is not intended to be static and may be revised by the source during the period the NIC is in effect. Revisions shall be submitted to the regulatory authority and be made available to the public. The following are the key activities and dates that shall be included:

(A) The dates for beginning and completion of engineering studies to evaluate emission control systems or process changes for emissions;

(B) The date by which contracts for emission control systems or process changes for emission control will be awarded, or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process changes;

(C) The date by which construction applications will be submitted;

(D) The date by which on-site construction, installation of emission control equipment, or process change is to be initiated;

(E) The date by which on-site construction, installation of emission control equipment, or process change is to be completed; and

(F) The date by which final compliance is to be achieved. The individual dates and milestones listed in paragraphs (a)(1)(ii)(A) through (F) of this section as part of the NIC are not requirements and therefore are not enforceable deadlines; the Agency is requiring paragraphs (a)(1)(ii)(A) through (F) of this section as part of the NIC only to inform the public of the source's intentions towards coming into compliance.

(iii) A summary of the public meeting required under paragraph (b) of this section.

(iv) For any source that does not intend to comply, but will not stop burning hazardous waste as required under paragraph (c) of this section, a certification that the designated source will:

(A) Stop burning hazardous waste on or before the compliance date of the emission standards of this Subpart; and

(B) Be necessary to combust the hazardous waste from another on-site source, during the year prior to the compliance date of the emission standards of this Subpart, because that other source is:

(1) Installing equipment to come into compliance with the emission standards of this Subpart; or

(2) Installing source reduction modifications to eliminate the need for further combustion of wastes.

(2) A draft of the NIC must be made available for public review no later than 30 days prior to the public meeting required under paragraph (b)(1) of this section.

(3) The final NIC must be submitted to the permitting agency no later than one year following the effective date of the emission standards of this subpart.

(b) *NIC Public Meeting and Notice*. (1) Prior to the submission of the NIC to the permitting agency, and no later than 10 months after the effective date

of the emission standards of this subpart, the source shall hold at least one informal meeting with the public to discuss anticipated activities described in the draft NIC for achieving compliance with the MACT standards promulgated in this subpart. The source must post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(2) The source shall submit a summary of the meeting, along with the list of attendees and their addresses developed under paragraph (b)(1) of this section, and copies of any written comments or materials submitted at the meeting, to the permitting agency as part of the final NIC, in accordance with paragraph (a)(1)(iii) of this section.

(3) The source must provide public notice of the NIC meeting at least 30 days prior to the meeting. The source shall provide public notice in all of the following forms:

(i) *Newspaper advertisement.* The source shall publish a notice in a newspaper of general circulation in the county or equivalent jurisdiction of the source. In addition, the source shall publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdiction where such publication would be necessary to inform the affected public. The notice must be published as a display advertisement.

(ii) *Visible and accessible sign.* The source shall post a notice on a clearly marked sign at or near the source. If the source places the sign on the source's property, then the sign must be large enough to be readable from the nearest spot where the public would pass by the source.

(iii) *Broadcast media announcement.* The source shall broadcast a notice at least once on at least one local radio station or television station.

(iv) *Notice to the facility mailing list.* The source shall provide a copy of the notice to the facility mailing list in accordance with §124.10(c)(1)(ix) of this chapter.

(4) The notices required under paragraph (b)(3) of this section must include:

(i) The date, time, and location of the meeting;

(ii) A brief description of the purpose of the meeting;

(iii) A brief description of the source and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the source location;

(iv) A statement encouraging people to contact the source at least 72 hours before the meeting if they need special access to participate in the meeting;

(v) A statement describing how the draft NIC can be obtained; and

(vi) The name, address, and telephone number of a contact person for the NIC.

(c) *Sources that do not intend to comply.* Those sources subject to the requirements of this subpart, except those sources meeting the requirements of paragraph (a)(1)(iv) of this section:

(1) Who signify in their NIC an intent not to comply with the requirements of this Subpart, must stop burning hazardous waste on or before two years after the effective date of the emission standards of this subpart;

(2) Who do not intend to comply with this subpart must include in their NIC a schedule that includes key dates for the steps to be taken to stop burning hazardous waste. Key dates include the date for submittal of RCRA closure documents.

§ 63.1212 Progress reports.

(a) *General.* Not later than two years after the effective date of the emission standards of this subpart, all sources subject to this Subpart except those hazardous waste combustion sources that comply with paragraph (b)(2) of this section shall:

(1) Complete engineering design for any physical modifications to the source needed to comply with the emissions standards of this subpart;

(2) Submit applicable construction applications to the applicable regulatory authority; and

(3) Enter into a binding contractual commitment to purchase, fabricate, and install any equipment, devices, and ancillary structures needed to comply with the emission requirements of this subpart.

(b) *Demonstration.* (1) Hazardous waste combustion sources shall submit to the regulatory authority a progress report on or before two years after the effective date of the emission standards of this subpart which contains information demonstrating that the source has met the requirements of paragraph (a) of this section. This information will be used by the regulatory authority to determine if the source has made adequate progress towards compliance with the applicable emission standards.

(2) Sources that intend to come into compliance with the emissions standards of this subpart, but can do so without undertaking any of the activities described in paragraph (a) of this section, shall submit documentation either:

(i) Demonstrating that the source, at the time of the progress report, is in compliance with the emissions requirements; or

(ii) Specifying the steps that will be taken to bring the source into compliance, without undertaking any of the activities listed in paragraphs (a)(1) through (3) of this section.

(3) Sources that fail to comply with paragraph (a) above or paragraph (b)(2) of this section shall stop burning hazardous waste on or before the date two years after the effective date of the emission standards of this subpart.

(c) *Schedule.* (1) The progress report shall contain a detailed schedule that lists key dates for all projects that will bring the source into compliance with the requirements of this subpart (i.e., key dates for the activities required under paragraphs (b)(1)(i) through (iii) of this section). Dates shall cover the time frame from the progress report through the compliance date of the emission standards of this subpart.

(2) The schedule shall contain the following dates:

(i) Bid and award dates for construction contracts and equipment supply contractors;

(ii) Milestones such as ground breaking, completion of drawings and specifications, equipment deliveries, intermediate construction completions, and testing;

(iii) The dates on which applications were submitted for or obtained oper-

ating and construction permits or licenses;

(iv) The dates by which approvals of any permits or licenses are anticipated; and

(v) The projected date by which the source will be in compliance with the requirements of this subpart.

(d) *Notice of intent to comply.* The progress report shall contain a statement that the source intends or does not intend to come into compliance with the applicable emission control requirements of this subpart.

(e) *Sources that do not intend to comply.* (1) Sources that: indicated in their NIC their intent not to comply with this subpart and stop burning hazardous waste prior to the submittal of a progress report; or meet the requirements of paragraph (a)(1)(iv) of this section are not required to include the requirements of paragraphs (b) and (c) of this section to their progress report, but shall include in their progress report: the date on which the source stopped burning hazardous waste; and the date(s) on which RCRA closure documents were submitted.

(2) Those sources that signify in the progress report, submitted not later than two years after the effective date of the emission standards of this subpart, their intention not to comply with the requirements of this subpart must stop burning hazardous waste on or before the date two years after the effective date of the emission standards of this subpart.

§ 63.1213 Certification.

(a) The Notice of Intent to Comply (NIC) and Progress Report submitted shall contain the following certification signed and dated by an authorized representative of the source:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(b) An authorized representative should be a responsible corporate officer (for a corporation), a general partner (for a partnership), the proprietor (of a sole proprietorship), or a principal executive officer or ranking elected official (for a municipality, State, Federal, or other public agency).

§ 63.1214 Extension of the compliance date.

(a) A source that intends to come into compliance with the requirements of this subpart, but due to the installation of controls will not meet the compliance date, may request an extension of the compliance date for one year.

(b) Sources subject to this subpart shall follow the requirements of § 63.6(i)(4) or § 63.1216 to request an extension of the compliance date.

§ 63.1215 Sources that become affected sources after the effective date of the emission standards of this subpart.

(a) A source that begins to burn hazardous waste after the effective date of the emission standards of this subpart, therefore becoming an affected source, but prior to 9 months after the effective date of the emission standards of this subpart shall comply with all the requirements of §§ 63.1211 through 63.1213 and associated time frames for public meetings and document submissions.

(b) A source that intends to begin burning hazardous waste more than 9 months after the effective date of the emission standards of this subpart, therefore becoming an affected source, shall meet all the requirements of §§ 63.1211 through 63.1213 prior to burning hazardous waste.

(1) Such sources shall make a draft NIC available, notice their public meeting, hold their public meeting, and submit a final NIC prior to burning hazardous waste.

(2) Such sources also shall submit their progress report at the time of the submittal of their final NIC.

§ 63.1216 Extension of the compliance date to install pollution prevention or waste minimization controls.

(a) *Applicability.* The owner or operator of any source subject to the requirements of this subpart may request

from the Administrator or State with an approved Title V program an extension of one year to comply with the emission standards in this subpart, if the owner or operator can reasonably document that the installation of pollution prevention or waste minimization measures will significantly reduce the amount and/or toxicity of hazardous wastes entering the feedstream(s) of the combustion device(s) subject to this subpart, and that the facility could not otherwise install the necessary control measures and comply within three years after the effective date of the emission standards of this subpart.

(b) *Requirements for requesting an extension.* Requests for a one-year extension must be in writing, must be received not later than 12 months before the affected source's compliance date, and must contain the following information:

(1) A description of pollution prevention or waste minimization controls that, when installed, will significantly reduce the amount and/or toxicity of hazardous wastes entering the feedstream(s) of the combustion device(s) subject to this subpart. Pollution prevention or waste minimization measures may include: equipment or technology modifications, reformulation or redesign of products, substitution of raw materials, improvements in work practices, maintenance, training, inventory control, or recycling practices conducted as defined in 40 CFR 261.1(c);

(2) A description of other pollution controls to be installed that are necessary to comply with the emission standards;

(3) A reduction goal or estimate of the annual reductions in quantity and/or toxicity of hazardous waste(s) entering combustion feedstream(s) that will occur by installing the proposed pollution prevention or waste minimization measures;

(4) A comparison of reductions in the amounts and/or toxicity of hazardous wastes combusted after installation of pollution prevention or waste minimization measures to the amounts and/or toxicity of hazardous wastes combusted prior to the installation of these measures; and, if the difference is less

than a fifteen percent reduction, a comparison to pollution prevention and waste minimization reductions recorded during the previous five years;

(5) Reasonable documentation that installation of the pollution prevention or waste minimization changes will not result in a net increase (except for documented increases in production) of hazardous constituents released to the environment through other emissions, wastes or effluents;

(6) Reasonable documentation that the design and installation of waste minimization and other measures that are necessary for compliance cannot otherwise be installed within the three year compliance period, and

(7) The information required in 40 CFR 63.6(i)(6)(i)(B) through (D).

(8) Documentation prepared under an existing State required pollution pre-

vention program that contains the information may be enclosed with a request for extension in lieu of paragraphs (b)(1) through (7) of this section.

(c) *Approval of request for extension of compliance.* Based on the information provided in any request made under paragraph (a) of this section, the Administrator or State with an approved Title V program may grant an extension of compliance with the emission standards identified in paragraph (a) of this section. The extension will be in writing in accordance with §§ 63.6(i)(10)(i) through 63.6(i)(10)(v)(A). EPA and States must consider the information required in paragraph (a) of this section in approving or denying requests for one-year compliance extensions.